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REPORTS

NOTES OF THE WEEK

The Recorder of Oxford

It is announced that the Queen on the recommendation of the Lord Chancellor has appointed Mr. John Galway Foster, Q.C., M.P., to be recorder of the city of Oxford in the room of Mr. Kenneth Diplock, Q.C., who has been appointed a Judge of the High Court.

This is an unusual re-appointment in so far as Mr. Foster had previously held the post between 1938 and 1951 when he was made Parliamentary Under Secretary of State at the Commonwealth Relations office—an appointment from which he resigned last year in order to resume his legal practice.

As is appropriate for the recorder of our principal university city, Mr. Foster graduated with the highest distinction at its university. He was educated at Eton, and New College, Oxford, and became a Fellow of All Souls in 1924. He took silk in 1950 and is recognized as an authority on private international law having been a Lecturer in that subject at Oxford between 1934 and 1939.

During World War II he was a First Secretary at the British Embassy in Washington, subsequently becoming a brigadier in the General Service of the British Army in connexion with American Lease-Lend, a post for which his experience admirably fitted him.

Hire-purchase

We have been struck lately by the number of reports of cases in which men convicted of offences of dishonesty have attributed their downfall to inability to keep up hire-purchase payments. It becomes clear that many enter into these agreements without due consideration of the possibility that unforeseen expenses or other causes may prevent them from meeting the periodical instalments, with unfortunate results which they seek to avoid sometimes by resort to theft or embezzlement. Quite respectable people find themselves having to plead guilty to such offences.

The truth is that today too many people are not content to wait for anything they want badly, even if it is a luxury, and the lure of easy payments catches them. To save up until the money is there to pay in full strikes them as a foolish, old-fashioned idea, dispelled by the present convenient system. If they want something, they ought to have it, and have it at once, especially if some acquaintance already has it.

Ask a man in court, when the making of some weekly order is under consideration, about his weekly budget, and how often he begins with so much a week for the car, so much for television, or for some other article of expenditure of the luxury class, and how often such items as rent and food come much lower in the list.

It is quite true that hire-purchase within proper limits, is a benefit to many, especially young married people, obtaining necessaries for which they could not pay in full at one time. What is wrong is the sometimes reckless entering into agreements in order to get at once something for which it would not hurt people to wait and to save. That is what often leads to disappointment or disaster, and sometimes to the criminal courts.

"Is Not Disqualified for Holding or Obtaining a Licence"

In *Edwards* v. *Griffiths* [1953] 2 All E.R. 874; 117 J.P. 514, the High Court decided that the words which appear in insurance policies requiring that the person driving the insured vehicle must hold a driving licence or have held *and not be disqualified for holding or obtaining such a licence* must be construed as referring to a disqualification by an order of a court within the meaning of s. 4 (6) of the Road Traffic Act, 1930. In that case the driver had held a licence, after passing a driving test, but subsequently under s. 5 of the Act had been refused a licence, on the ground that he was under the supervision of the local health authority under the Mental Deficiency Acts. The High Court held that his having been refused a licence in this way did not make him a person disqualified within the meaning of the provision in the insurance policy.

In *Mumford* v. *Hardy and Another* (*The Times*, January 19, 1956) the High Court had to consider this matter in the case of a driver who was under 17 and who was, by virtue of s. 9 (2), Road Traffic Act, 1930, prohibited from driving any motor vehicle other than a motor

cycle or invalid carriage and who was, therefore, deemed to be disqualified, by virtue of s. 9 (5), for holding or obtaining a licence to drive any other type of motor vehicle.

Justices who heard charges, against the father and the boy, under s. 35 of the 1930 Act, felt bound by the decision in *Edwards* v. *Griffiths*, *supra*, to hold that as this boy was not disqualified by any order of a court within s. 4 (6) of the 1930 Act, the proviso in the relevant policy did not touch him, and that policy covered his driving of the vehicle. The insurance company informed the justices that, because of that decision, they considered themselves to be on risk while the boy was driving.

Dealing with the matter the Lord Chief Justice said that in the former case they were dealing not with a man under age but with a man who had been refused a licence on health grounds. He referred then to the provisions of s. 9 (5), *supra*, and said " different considerations applied to the present case than to *Edwards* v. *Griffiths* and although the manager of the insurance company had said that the company would have considered themselves on risk he said so thinking that *Edwards* v. *Griffiths* applied to the case, but it did not. Therefore the case must be sent back to the justices with a direction that the offences were proved."

Need for a Standard

Once again the question of what should be the meat content of a sausage has come before the High Court and, as the Lord Chief Justice remarked, " These cases will go on and on until some Minister who has power to do it issues an order saying what a sausage is."

The case was *Thrussell* v. *Whiteman* (*The Times*, January 17), and was an appeal by Case Stated from the dismissal of a summons under s. 3 of the Food and Drugs Act, 1938. The analyst had certified that there was a deficiency of 11·5 *per cent.*, in meat content, basing his opinion on a meat content of 65 *per cent.* The defendant did not dispute the figures, and did not require the attendance of the analyst as a witness. The justices, having heard the evidence for the defence as to the recipe from which the sausages were made, were of opinion that there being no longer a prescribed meat content of 65 *per cent.* for pork sausages, the prosecutor was not prejudiced by the sale to him of pork sausages with a meat content of 57·5 *per cent.*, and accordingly they dismissed the information.

In the course of his judgment, the Lord Chief Justice said that some people thought a sausage should contain 75 *per cent.* meat; others thought less. He thought it depended upon the price. A possible reason why most of the analysts thought that 65 *per cent.* was right was that when there was control that was the amount of meat that had to be inserted, but the order laying that down was not only concerned with the meat content but also with the price. That order had gone. There was evidence before the justices which enabled them to come to the conclusion that these were pork sausages.

Sausages are a popular kind of food, and apparently there is a strong opinion that there should be some standard of meat content. If that is desirable, the sooner it is prescribed, so that traders and customers are in a position to know what should be the content, the better it will be. These test cases will then cease, and prosecutions will rest on more definite grounds.

Words of Definition

In an Act of Parliament the interpretation section sometimes consists of clear definitions of expressions used in the Act, while sometimes expressions are said to *include* certain words. Thus a definition may limit the meaning of an expression, or, where the word "includes" is used, it may extend the meaning.

For example, in *Reynolds and Another* v. *John* (*The Times*, January 20) the Divisional Court considered the meaning of the expression " loudspeaker " in a local Act. The Act said that " in this section the expression ' loudspeaker ' includes an amplifier or similar instrument." In the course of his judgment, Ashworth, J., observed that in his view the word " includes " was used for the purpose of enlarging rather than restricting the definition.

By contrast, in s. 20 of the Prevention of Crimes Act, 1871, which is the interpretation section, the word " crime " is followed by the word " means," and the effect is to restrict the meaning of the word to the offences specified.

Matrimonial Cruelty and the Question of Intention

In the case of *Waters* v. *Waters* (*The Times*, January 18) the Divisional Court remitted a case to the justices for a re-hearing. The justices had dismissed a summons for persistent cruelty and constructive desertion upon a submission of no case to answer.

The allegations were that the husband had been guilty of extreme boorishness and unbearable taciturnity, of a deliberate refusal to co-operate on running the home and on finance, and of a personal uncleanliness of a marked character which had been persisted in in spite of protests and to the extent that it had become nauseating. The justices in their reasons had stressed that they found that the husband had had no intention of being cruel or driving the wife away; and that the deterioration in the wife's health had not been due to his wilful misconduct.

The President, in the course of his judgment, referred to the difference between intention and desire, and said that upon the wife's case the husband knew that his behaviour was affecting his wife's mental health, and he had been unwarrantably indifferent to the consequences. There must be a re-hearing of both charges.

On the question of deciding upon a submission of no case Lord Merriman said that the justices had a perfect discretion to take the course they did, but it was desirable in a borderline case to hear both sides, if possible. He also referred to conflicting decisions upon intention to injure, and in particular to *Jamieson* v. *Jamieson* [1952] 1 All E.R. 875; 116 J.P. 226.

Too Many Appeals

Police, and for that matter other prosecuting authorities, will take notice of the observations of the Lord Chief Justice in the case of *Thompson* v. *Wigley* (*The Times*, January 12) about unnecessary appeals by Case Stated. Justices had dismissed an information charging the respondent with driving without due care and attention, and the prosecution appealed by Case Stated. The justices were of opinion that the respondent had exercised sufficient care in difficult circumstances to create a doubt in their minds.

During the hearing of the appeal, the Lord Chief Justice observed that when, on a minor charge such as this, justices have come to the conclusion that no offence was committed, it was generally wrong to bring it before the Divisional Court by special case.

Counsel for the appellant said the appeal had not been brought merely because the police did not like the finding, but because the evidence raised an irresistible presumption.

Lord Goddard observed that the Court sat to try questions of law and of some substance, not to re-try cases in

which justices have come to a certain conclusion on the facts, whether the Court would have come to the same conclusion or not. There was no point here to settle for the guidance of police officers. In dismissing the appeal he added that it was a pure question of fact, and the justices had seen and heard the witnesses and knew the locality.

Although this case arose under the Road Traffic Act, the principle involved is of general application. A case should not be applied for unless there really is a point of law of some substance to be decided. Justices can refuse to state a case on the ground that the application is frivolous, and they may be justified in doing so if they are satisfied that no such point of law is involved or if it is clear that the point has already been decided. Refusal is not common, however, doubtless because justices are anxious not to appear to be standing in the way of an appeal. Before deciding whether they will state or refuse to state the case, they may think it well to ask the would-be appellant to indicate precisely the point of law he wishes to raise.

Some Evidence or No Evidence

While the High Court does not interfere with the findings of justices on pure questions of fact so long as there is some evidence to support the findings, it will do so if the justices have acted without such evidence, and the question whether there was or was not evidence to support a finding is a question of law upon which a case may be stated. Thus, in *Bracegirdle* v. *Oxley* [1947] 1 All E.R. 126; 111 J.P. 131, on a Case Stated, the Divisional Court remitted a case to the justices who had dismissed an information with a direction to convict, and stated that if justices had come to a decision to which no reasonable bench of magistrates could come, the High Court can interfere because the position is then the same as if the justices had come to a decision of fact which there was no evidence to support.

In the recent case of *Jenkins* v. *W. J. Brookes & Sons, Ltd.* (unreported as yet) the Divisional Court allowed an appeal by the prosecutor against the dismissal of an information, there being no evidence to justify such dismissal.

The prosecution was in respect of deficiency in the weight of loaves of bread: the defendant had relied on the defence provided by s. 12 (2) of the Sale of Food (Weights and Measures) Act 1926. In delivering judgment the Lord Chief Justice (with whose judgment Ashworth, J., concurred, Stable, J., dissenting) said the justices had held that the bakers had established the defence open to them that the deficiencies were due to a *bona fide* mistake or accident or to a cause beyond their control or that it occurred in spite of all reasonable precautions.

Lord Goddard went on "The only witness called for the defence was the general manager, who could not say what had happened the night the loaves were baked, because he was not there, and the only evidence the justices had was that a very elaborate system had been devised, which, if it was followed, would probably have prevented under-weight loaves being sent out. There was no evidence, however, to show that the deficiencies were due to a mistake or accident. There was no evidence on which the justices could find the defence was made out."

Where there is evidence of a fact, the justices are the judges of its weight, but if there is no evidence the High Court will deal with the point.

The New Valuation Lists

In our issue of January 14, last, we commented on the effect of the new valuations upon ratepayers' pockets insofar as the percentage uplift of one county or county borough compares with the corresponding aggregate figure for England and Wales. It was pointed out that this aspect might result in greater fluctuations in rates than the rise in individual assessments.

Now we learn from the city treasurer of Birmingham that he has been notified by the Treasury that the city will not receive an equalization grant for the coming financial year, which will add between 2*s.* 4*d.* and 2*s.* 6*d.* in the pound to the rates.

The new rating assessments have doubled Birmingham's rateable value but it does not necessarily follow that the city was previously undervalued as there has been much new development there since the war. The change brings Birmingham over the new qualifying average, so depriving the city of £1,700,000 in relief of rates.

Liverpool, on the other hand, changes places with Birmingham. Hitherto on the test of rateable value a head, the seaport city (being slightly above the county borough average) has not qualified for an exchequer equalization grant, now it is to receive £1,150,000. The value of Birmingham has, as indicated above, doubled and that of Liverpool has advanced by only two-fifths.

The system of exchequer grants will, however, be reviewed by the Minister of Housing and Local Government when he considers the full effects of valuation.

NORTHERN IRELAND WARRANTS SIGNED BY CLERKS

Justices in this country are not in the ordinary way concerned with warrants issued in Northern Ireland, but they may be called upon, at any time, to endorse such a warrant to authorize its execution within their jurisdiction.

Their authority so to act depends on s. 12 of the Indictable Offences Act, 1848, and also on s. 27, Petty Sessions (Ireland) Act, 1851. The former section enacts, after authorizing the backing in Ireland of English warrants for indictable offences, that "if any person against whom a warrant shall be issued in any county or place in Ireland, by any justice of the peace, or by any judge of Her Majesty's Court of Queen's Bench there, or any justice of oyer and terminer or gaol delivery, for any crime or offence against the laws of that part of the United Kingdom shall escape, go into, reside or be, or be supposed or suspected to be, in any county, etc., etc., in that part of the United Kingdom called England or Wales, it shall and may be lawful for any justice of the peace in and for the county or place into which such person shall escape or go . . . to endorse such warrant in manner hereinbefore mentioned, or to the like effect; . . ."

The form of endorsement (K) is set out in the schedule to the 1848 Act and requires the justice endorsing the warrant to be satisfied by proof upon oath of the handwriting of the issuing justice (or judge).

Section 27 (3) of the Petty Sessions (Ireland) Act, 1851, deals with the endorsement for execution in England, Scotland, the Isle of Man or the Channel Islands of warrants of various kinds issued from petty sessional courts in Ireland and provides that where it appears that the person concerned or his goods are to be found in some place in one of those other territories the inspector-general of the constabulary force concerned (to whom the warrant has been transmitted by the sub-inspector or head

constable to whom it was issued) may endorse the warrant in the prescribed form and thereupon any justice or officer having power to issue a warrant (or similar process) in any of the said other territories may endorse the warrant to authorize its execution within his jurisdiction. Before so endorsing it the said justice or officer must have proof on oath of the handwriting either of the inspector-general endorsing it as aforesaid *or of the justice by whom it was issued.*

The point we are particularly concerned with is the effect on the foregoing provisions of s. 27 of the 1851 Act of s. 44 of the Summary Jurisdiction Act (Northern Ireland), 1953, the relevant portion of which is as follows:

"44 (1) Where any provision of the Summary Jurisdiction Acts (Northern Ireland) or of any other enactment operates to require any of the following documents, that is to say:

(*a*).....

(*b*).....

(*c*).....

(*d*) any warrant of execution issued for the recovery of any fine or other penalty ordered to be paid by a court of summary jurisdiction.

to be signed by a resident magistrate or justice of the peace it shall be a sufficient compliance with that provision if the document is signed by the clerk of the court of summary jurisdiction dealing with the matter to which the document relates."

By s. 52 (2) this Act is to be continued as one with, and included among the Acts which may be cited together as, the Summary Jurisdiction Acts (Northern Ireland).

In the schedules are set out certain repeals of the 1851 Act referred to above.

Having regard to these provisions of the Act of 1953 can a warrant to enforce payment of a fine, which has been signed by a clerk of the court as authorized by s. 44, *supra*, be endorsed for execution in this country on proof of the handwriting of the said clerk ?

We are in some difficulty in coming to a positive conclusion because we have not been able to ascertain which are the Acts which may be cited as the Summary Jurisdiction (Northern Ireland) Acts. It does appear to be the intention of s. 44 that a warrant signed by a clerk on the authority of that section shall be as effective for all purposes as one signed by a justice, and if the 1851 Act, *supra*, is one which may be cited as one of the Summary Jurisdiction (Northern Ireland) Acts we think there could be little, if any, doubt that proof of the clerk's handwriting would be sufficient. But, in any event, we incline to the view that unless the High Court otherwise decides such warrants so signed by a clerk should be treated in this country, as they clearly are in Northern Ireland, as valid for all purposes and that the clerk's signature should be treated as equivalent to a justice's signature. The 1851 Act is one "to consolidate and amend the Acts regulating the proceedings at Petty Sessions, and the Duties of Justices of the Peace out of Quarter Sessions, in Ireland." It is, therefore, in effect, if not in name, a Summary Jurisdiction (Northern Ireland) Act. We shall be interested to hear whether any of our readers has had to deal with the endorsement of a warrant so signed by a clerk.

RIVER COURT: THE EARLY HISTORY OF THAMES MAGISTRATES' COURT—III

By STANLEY FRENCH

(*Concluded from p.* 41, *ante*)

Harriott was never modest about his part in the organization and development of the Thames Police Institution and sometimes he seems over-anxious to make others appreciate his importance and ability in comparison with those of his colleagues, but that he was the moving spirit at Thames from 1798 to 1816 cannot be questioned. Even the routine correspondence of the office in his time bears the mark of his personality.

The Act of 1800 gave the special justices additional powers to deal summarily with offences on the river and its banks. The "divers ill disposed and suspected persons and reputed thieves," for instance, who "frequented the said River and the Quays and Highways thereto with intent to commit felony" could now be convicted as rogues and vagabonds, a warrant could be issued, on information on oath, to search for goods suspected stolen or unlawfully obtained, and any person breaking open packages and cases in course of loading, either wilfully or carelessly, could be fined 40*s.* with the alternative of one month's imprisonment. An unusual addition to the penalty for the last offence was that the magistrate was empowered to cause an account of the conviction to be published in the newspapers, with the name and description of the offender.

The Thames magistrates made good use of their summary powers. Indeed they were so anxious to deal promptly and surely with petty pilfering that they frequently convicted defendants of unlawful possession although the owner of the property and the circumstances of the obtaining of it were known or could be easily discovered. It seems to have been the magistrates' practice when a man was brought before them on a charge of unlawful possession of property which could be identified as belonging to a body like the Board of Ordnance to inform that body by letter that they had remanded the defendant (remands were always timed for noon) and to request that the board should send a solicitor to prosecute and give consent to the matter being dealt with summarily. This avoided the uncertainty of a trial before a jury.

In the first year, for example, the Thames Police brought 494 persons before the magistrates on charges of the unlawful possession of government stores and 396 of them were convicted. In addition to this extensive use of their summary powers the Thames magistrates sat as examining justices and committed many for trial on charges of felony, including robbery, coinage offences, and forgery. Unfortunately, the clerk responsible for entering in the letter book a return of indictable cases heard at Thames in the years 1806, 1807 and 1808, which the Home Office asked for on November 17, 1808, reproduced the official form but left it blank and thereby deprived posterity of some interesting statistics.

Some indication of the nature of the magistrates' work and the effect the Institution was having on depredations on the river can be gathered, however, from a report which the magistrates sent to the Home Secretary in 1807 when the Act of 1800 was about to expire. They said that in comparison with the cases of robbery and plunder brought before them at the commencement of the river police "there are but few now and those more of petty larceny and misdemeanour than of Grand Larceny." They were convinced that "the same vigilance which

has suppressed thieving has also put a considerable stop to smuggling," which "was an organized system and carried to an extraordinary height by the aid or connivance of many of the revenue officers." Even "the almost incredible plunder of Naval stores from the King's Yards at Deptford and Woolwich had been suppressed to some degree" by the attention on land and water of the Thames Police, whose boats sometimes went as far as Sheerness and Chatham.

In a later report (1811) the magistrates said that "in our own district and experience, by land we find riots and dangerous affrays among the foreign seamen (many of whom continue on shore until they are destitute and then seek a support by plunder) the most prevalent offence and the most difficult to be prevented. But the most alarming part of their conduct is that of stabbing and cutting those with whom they are offended, though provoked by themselves." Such disturbances of the peace are frequently referred to in the court letter book. In July, 1810, for instance, London Docks were threatened with a riot due to trouble between American and Portuguese and Greek sailors, and a labourers' strike, and in January, 1811, the magistrates were so concerned about violence in their district that they suggested to the Home Secretary that if a foreigner and two women they had committed for trial to the Old Bailey on a charge of murder were convicted it would make much more impression on others if they were hanged at the scene of the crime instead of at comparatively remote Newgate. By water, the crimes most prevalent and difficult to prevent were the theft of timber and coal.

Writing some years later Harriott said that "those best qualified to form a true judgment on the subject estimate that the suppression of smuggling and the protection of public stores had saved much more than £100,000 of the public money."

Not even a Secretary of State seeking to economize could argue that the Thames Police Office was not earning its keep, the cost of which was limited by the Act of 1800 to £8,000 yearly, and Parliament extended its lease of life for a further seven years.

Shortly after came the first of a series of events which must have been a grave hindrance to the orderly development of the Institution. The chief clerk in 1808 was H. M. Tomlins, who had entered the service of the Institution as second clerk in 1805 (in succession to a man named Pett who resigned for unknown reasons and a few years later was asking the magistrates for financial aid and help to get a warehouseman's job) and had been promoted only two years later. In October, he was unable to account for £247 10*s*., fees and penalties received by him. When called upon for an explanation he stayed away from the office and after several days the magistrates suspended him and informed the Home Secretary. A few days later Tomlins settled his accounts with the Receiver, Colquhoun, and handed in his resignation.

The magistrates thereupon recommended the Home Secretary to promote Walter Gullifer to chief clerk as during the 2½ years he had acted as second clerk he had "conducted himself altogether in such a manner both as to ability and integrity which has uniformly given us satisfaction and by which he is entitled to our approbation."

They were "much inclined to think he will do credit to the appointment" but were grievously mistaken, for a mere eight months after the Home Secretary had accepted their recommendation they were writing to him to say that "we have been under the disagreeable necessity of making an order for the suspension of Mr. W. G. Gullifer." Not only had he been guilty of "divers instances of contumacious behaviour both in manner and words as well as in positive disobedience to our orders," but his public cash account was £94 deficient, some part of which he admitted spending on himself, and he "contumaciously" refused to answer any questions put to him by John Harriott.

The reason for this defiant attitude was that the resident magistrate's conduct was itself under investigation. Tomlins had followed up his resignation with allegations that Harriott had himself been guilty of the misuse of public funds, which he threatened to expose if Harriott did not drop the charges against him, and Gullifer appears to have supported his predecessor in this even before his own defalcations had been discovered. Harriott at once reported the allegations to the Home Secretary and demanded an inquiry. The Home Secretary appointed three magistrates to conduct it. They spent several days in detailed examination of the affairs of the Thames Office, whilst the Thames magistrates themselves waited impatiently for the result, because, as they told the Home Secretary, "Our exertions are at present paralysed and in a state of disorder . . . until the termination of the inquiry we much fear it will be out of our power to enforce subordination and conduct the business of this office with vigour and effect."

All that resulted from the inquiry was that Harriott was told it would be more satisfactory for him if his character was cleared by a trial in the Court of the King's Bench, and that therefore the Treasury Solicitor had been instructed to receive any charges the two clerks could substantiate in preferring a bill of indictment.

On June 15, 1810, John Harriott stood his trial in the Court of King's Bench on no less than 53 counts in one indictment, the pleonastic language of the time giving them a total length of 50 *ft*. The details of the trial, so far as they can be discovered, belong to the biography of John Harriott rather than to the history of Thames. It is sufficient to say that he was acquitted of all the charges except a minor one of not putting his name on three billheads for work done for the Thames Office at his ships' pump factory. The jury found that he had withheld his name, but not for any corrupt motive. The Judge was not present when the jury delivered their verdict, which Harriott considered amounted to an acquittal; the clerk recorded the verdict as "Guilty," and Harriott was fined. It had been a great ordeal for him, as well as most harmful to the prestige of the Institution. He seems to have been a man of absolute probity but it may be that his tendency to keep even minor matters in his own hands led to sufficient confusion and neglect of accounts to give some ground for suspicion. The only hint of anything of the kind which has survived is a reference in a letter written by the magistrates in May, 1823, to an account which "was kept entirely by Mr. Harriott and was not left in the office but continued in his possession until his death." The nature of the account does not appear, and what significance there was in the last sentence of this letter will now never be known; it ran "The official letters found in this office upon the subject contain no authority for the charge of five *per cent.* on the sums issued as for Mr. Harriott's commission."

Harriott continued to be the driving force of the Thames Office until the end of 1816, when he was stricken by cancer. He died on January 13, 1817, from stab wounds self-inflicted. A considerate coroner's jury found that he died from natural causes.

The Thames Police Institution was given another seven years of life by Act of Parliament in 1814, and in 1821 an Act for the More Effectual Administration of the Office of Justice of the Peace in the Metropolis and for the More Effectual Prevention of Depredations on the River Thames brought the River Court (but not Bow Street) under the same umbrella as the other seven public offices. Henceforth the magistrates at Thames were to be on the same footing as those at the other offices and the Receiver who had acted for the latter was to act for Thames as well

(Colquhoun had died in 1820). The Shadwell Police Office was closed and a new one opened instead in Marylebone, leaving Thames responsible for a considerable additional area, including Poplar.

This arrangement continued until 1839, when the Metropolitan Police Courts Act brought all the metropolitan police offices, including Bow Street, into one organization, changed their description from "Office" to "Court," authorized the establishment by Order in Council of other courts, and limited the number of magistrates to 27.

As the result of this and of the Metropolitan Police Act, 1839, the Thames magistrates ceased to be responsible for the control of the Marine Police, which became the Thames Division of the Metropolitan Police. The Thames District was enlarged to take in part of that formerly within the jurisdiction of Lambeth Street, Whitechapel, the number of magistrates was reduced to two (each with £1,000 a year) and Mr. Edward William Symons, who had succeeded Gullifer as chief clerk in 1809 was given an increase of salary which made his pay £500 a year.

The history of the Thames Police Office was completed, that of the Thames Police Court begun.

ENFORCING A CHARGE

We are indebted to a correspondent for letting us know of a case in the Court of Appeal, which seems not to have been reported and may be of interest to other local authorities. It is *Llantrisant and Llantwit Fardre R.D.C.* v. *Phillips and the National Coal Board*, and was heard by Denning, Hodson, and Morris, L.JJ., last October, on appeal from Pontypridd county court. Section 291 of the Public Health Act, 1936, provides machinery for a local authority to recover money they have spent upon work which ought to have been done by the owner of property in pursuance of any provision of the Act or Acts repealed thereby. They can obtain a charge and if necessary an order for sale. This power was not new; it occurred in s. 257 of the Public Health Act, 1875. Section 291 contains also a new power, namely to recover from the person who was owner when the work was completed, even though he is no longer owner. In the case before us, the local authority had obtained from the magistrates' court an order requiring a leaseholder to carry out certain repairs to leasehold property, which were needed in order to remove a nuisance to which s. 94 of the Act of 1936 applied. The order was disobeyed, and the leaseholder was prosecuted, but, before the local authority could enter on the premises to do the work in default, the leaseholder assigned his interest to another person. A solicitor purporting to act for assignor and assignee notified the freeholder and the local authority. This assignment, if genuine, precluded recovery of the expense from the assignor, even under the extended power in s. 291, *supra*, because he had ceased to be owner before the local authority did the work. When the local authority sought to recover the money from the assignee, all the correspondence including the formal demand for payment was returned to them by the post office. The demand for payment was therefore served on the premises, by handing it to the occupiers (who were not the head leaseholder or assignee) and by affixing a copy on the house. When this failed, the only mode of enforcing payment was by making use of s. 291. (It seems that the persons actually occupying were squatters, and the relationship between them and the original leaseholder, and therefore between them and the assignee of the lease, does not certainly appear. The particulars of claim in the county court suggested they were mere trespassers.) The local authority, in pursuance of s. 291, proceeded in the county court against the assignee, and the county court Judge granted their application for a declaration of charge and ordered that possession of the property should be given to them; the registrar of the county court ascertained that the freeholders were the National Coal Board and they were thereupon joined in the proceedings, in order that a sale to enforce the local authority's charge might include all interests. The learned Judge refused, however, to grant an order of sale against the National Coal Board, stating this to be too drastic a remedy when they had been faultless in the matter. He also refused the application for an order to sell the leasehold interest, on the ground that there was doubt whether the assignee, whose signature on the assignment was unattested, was the person who had been made defendant in the proceedings. The names were the same, but there was nothing to show that they were the same person.

The local authority, having thus obtained possession of property which they did not want, and having failed to secure an order for selling either the freehold or the leasehold interest as a means of recovering the money they had spent, appealed against the county court's decision.

In the Court of Appeal further consideration was given to the cases of *Paddington Borough Council* v. *Finucane* (1928) 92 J.P. 68, upon which the proceedings in the county court had been based; to *Bromley Corporation* v. *Brooker* (1934) W.N. 237, and to earlier authorities, notably *Tottenham Local Board* v. *Rowell* (1880) 43 L.T. 616; and *Birmingham Corporation* v. *Baker* (1881) 46 J.P. 52.

The first point the Court of Appeal had to consider was whether the order for sale, if made, should extend beyond the leasehold interest, which might be supposed in some cases to be adequate to reimburse the local authority. The Court took the view that the proper course was to make an order for sale of all interests in the property, looking to the language used in s. 291, although Hodson, L.J., thought there might be an occasion where a sale could properly be ordered of a part only. The freeholders had, amongst other objections, said that the council had not shown that a sale of the leasehold would be insufficient to satisfy their debt, but the Court of Appeal, against this, noticed that the lease had only 18 years to run and that the assignment which had been made (after the local authority had gone to the magistrates) had been for £5 only. In such a case at any rate the Court considered it better to sell the freehold, with merger of the leasehold interest, than to sell the leasehold by itself. The learned correspondent to whom we are indebted for informing us of this case believes this to have been the first occasion in which *Paddington Borough Council* v. *Finucane* has been before the Court of Appeal and, in view of the opinion expressed by Hodson, L.J., and the objection taken by the National Coal Board to a sale of their interest, when they had been quite guiltless in the matter, he suggests that in future cases it might be well for a local authority to be prepared in the county court with formal evidence of the value of each interest in the property.

A further and more technical point taken by the freeholders was that they had not been served with notice in pursuance of s. 103 of the Law of Property Act, 1925. The Court of Appeal considered, however, that service of the demand for payment under s. 291 of the Act of 1936 in the manner already described, upon the leaseholder who was the owner within the definition in that Act, was enough for the purposes also of s. 103 of the Act

of 1925. The council had kept themselves within O.19, r. 5 in that the freeholders had been informed from the outset of the intended proceedings, and had been furnished with a copy of the particulars of claim in the county court. The case is, however, a reminder that, when demands under s. 291 of the Public Health Act, 1936, are being prepared and served, ss. 103 and 196 of the Law of Property Act, 1925, have to be remembered.

On the subject of the learned county court Judge's difficulty, about the identity of the assignee with the person made defendant in the county court, Denning, L.J., said that the assignee was either a man of straw or no man at all, since he purported to have acquired a lease with 18 years to run for £5. The local authority could not know which he was: they had been given formal notice of the assignment by a solicitor, as had the freeholder, and the summons in the county court had been the subject of an order for substituted service and been served by advertisement. If the assignee existed the local authority had done everything possible to see that he had notice of the proceedings. If the assignment was a fiction, the original leaseholder was in no position to complain that the leasehold interest was sold. Inasmuch as the assignee or purported assignee had not been found and was not represented, costs could not effectively be awarded against him but costs were awarded against the freeholders. The costs were, however, to be in the first instance added to the charge upon the property.

Our correspondent suggests that the line taken with regard to the leasehold interest in this case should assist local authorities in enforcing statutory charges where owners can not be found, and that the case is distinguishable from *Wealdstone Urban District Council* v. *Evershed* (1905) 69 J.P. 258 and *Friern Barnet Urban District Council* v. *Adams* (1927) 91 J.P. 60. Where the local authority have reason from the outset to doubt whether an assignment is genuine, *i.e.*, whether the assignee exists, they will naturally join the assignor from the outset, but they may not always have reason to doubt the genuineness of the assignment until it is too late (as it was in the present case) to join him.

ANNUAL REPORT OF THE MINISTRY OF HEALTH—II

Part II of the annual report of the Ministry of Health contains the report of the chief medical officer on the State of the Public Health. It is of primary interest to local health authorities and hospital bodies, but some parts are of equal interest to other local government bodies as well as to the public generally.

The estimated population of England and Wales at mid-1954 was 44,274,000, being 165,000 more than in 1953. There were 108 females for every 100 men. More boys are born than girls, and boys outnumber girls throughout childhood, but mortality rates at every age are higher among males. In the higher age groups women are substantially more numerous than men.

In the chapter on general epidemiology it is noted that there was no case of smallpox in the country in 1954 but the chief medical officer is concerned that only about 34 *per cent.* of infants are vaccinated. He considers the percentage should be 75 for adequate protection. Perhaps the disease most feared as affecting the young is poliomyelitis. The number of cases notified was the smallest since 1948, and the number of deaths was the lowest since 1946.

Mortality from tuberculosis continued to decrease and the number of patients awaiting admission to institutions for treatment fell by over half. Unfortunately, however, there was another increase in deaths from cancer. Despite the fact that research into the causes of cancer of the lung has been intensified not only in this country but also abroad such further evidence as has been published, while generally strengthening the presumption of a causal connexion between cancer of the lung and smoking, does not yet permit of any more definite conclusion than that contained in the 1953 report. The tobacco industries are co-operating in this research.

In the chapter on laboratory services it is stated that the recruitment of new blood donors increased from 515,632 to 540,389. This allowed the greater demands on the service to be met.

Mental health

More than half the total admissions to mental hospitals occur between the ages of 25 and 55. A little more than one-third, occurring in persons over 55 years of age, represent a mixture of mental illness and senile decay. The steady increase in the proportion of voluntary patients continues, in a few hospitals reaching over 90 *per cent.* of the admissions. The average for all hospitals is 71·5 *per cent.* as against 69·2 in the previous year.

There is still overcrowding in hospitals, but it stated that if mentally defective and old people could be discharged when they are fit for suitable accommodation elsewhere and if out-patient departments, day-hospitals and other community services were able to give more effective care and treatment, the number of beds in mental hospitals would probably be sufficient for the population. This is a more definite statement on the subject than has appeared previously and deserves the most serious consideration.

On the question of certification and admission to mental hospital of elderly people it is suggested that this could be avoided in many instances if suitable accommodation was available elsewhere. There are also many elderly patients in mental hospitals who could more appropriately be cared for in ordinary chronic sick wards or in long-stay annexes or in local authority welfare accommodation. It is agreed that it would not be practicable to transfer any large body of these people who are settled in mental hospitals but that it should be possible in the future to ensure that they are sent to the appropriate accommodation as soon as their condition warrants it, thereby relieving the pressure in the mental hospitals.

Problem families

Turning to an entirely different matter it is useful that in the chapter on maternal and child care there is a section on the value of recuperative centres in the rehabilitation of problem families. An attempt was made to assess the value of residential training for mothers showing signs of deterioration. It was found that of the 230 mothers (with average 2·7 children per mother) admitted from 10 local health areas, ill-health in the mother was the primary reason, coupled with such other reasons as child neglect, domestic difficulties, or being a problem family. It is accepted by the Ministry that these homes make a valuable contribution towards the rehabilitation of a limited number of carefully selected families and details are given of the types of woman likely to benefit.

Domestic accidents

Fatalities from domestic accidents continue to increase. There were 6,617 in 1954 of which about four-fifths occurred at

the two extremes of life; 82 *per cent.* occurred in old age pensioners and in two-thirds, women were the victims. Many medical officers of health have taken up the work of accident prevention and have initiated the formation of local health safety committees of which there are now more than 60 in the country.

Rehabilitation

In the chapter on rehabilitation it is emphasized that the fundamental requirements are that it should begin as soon as the patient comes under treatment and that the help of specialists is available. Rehabilitation prevents the patient from being a burden on others. It is pointed out that this objective obtains the rehabilitation of those old people whom loneliness, neglect or senility have deprived of the wish or capacity to fend for themselves. Rehabilitation of the mentally ill constitutes a particularly important feature of the hospital service. Between 45,000 and 50,000 patients are discharged annually of whom many require after-care. This duty remains with the hospital while the patient remains on their books or is attending an out-patient department. Later, it falls on the local health authority. It has been found that a considerable proportion of old people admitted to mental hospitals can be restored to health in a reasonably short time, some are suffering from long indifference to food.

Care of old people

The chapter on the care of old people is of special interest to welfare authorities. It is mentioned that about 750,000 elderly women and 168,000 elderly men are living alone; often such persons are in need of help or advice and yet their plight is unknown. As has been pointed out so many times more information is necessary about the services available for old people and it is stated in the report that too often it would seem that those concerned with various aspects of the care of old people have insufficient knowledge of what their own colleagues are doing for the same old people.

Attention is drawn to the housing needs of the elderly and examples are given of special schemes which have been inaugurated for their benefit. Reference is also made to help available to old people through the local health service but it is mentioned that in this the sanitary inspectors may have a greater part to play and that undoubtedly well-selected voluntary visitors can be of estimable value.

The old person who becomes mentally confused, while living alone or with younger relatives, presents a great social problem. Many of these old people do not come to light until too late. To assist relatives and to delay admission to mental hospitals a few day hospitals or day shelters have been established in different parts of the country, attached either to a geriatric unit or to a mental hospital. It is suggested that the "day hospital" must be regarded as an experiment which undoubedly provides relief for harassed relatives and which may be of preventive value; it is thought, however, that the cost of transport for bringing the patients to and from the day hospital may prove out of proportion to the results achieved.

On residential accommodation it is pointed out that an increasing number of infirm old people require residential care with assistance perhaps in dressing, toilet and meals, but do not require constant hospital nursing attention. Some old people, after admission to an old people's home, rapidly improve in health and could, it is suggested, be cared for satisfactorily at home, with the help of the domiciliary services; discharge of such persons is, however, not easy.

An increasing proportion of elderly people with acute illness are occupying beds in the general wards of hospital as well as in geriatric units which now number about 70. A high proportion of beds in geriatric units and in chronic sick wards are, however, occupied by old people who could be cared for at home with assistance, or who should, in the opinion of the Ministry, be cared for in welfare authority accommodation. In conclusion, it is stated as clear that the number of old people who become mentally and physically infirm is increasing, and that the problem of the future will be the provision of suitable care for the infirm aged. Such provision calls for a closer liaison than exists at present between doctors, hospitals and local authorities and the many ancillary workers in this widening field. This is a conclusion which should receive the closest attention by all concerned.

MISCELLANEOUS INFORMATION

NEWARK WEIGHTS AND MEASURES DEPARTMENT

The value of inspection is instanced by Mr. G. Roberts, inspector for the borough of Newark, in his report for the year ended September 30, last, by the following incident. A check was being made on a market stall-holder. It showed that he was using two scales of a similar type but had interchanged the scoops with the result that one scale was giving 1¾ *oz.* underweight and the other a similar amount overweight. In this case, says the report, the trader was gaining nothing but some of his customers were undoubtedly receiving short weight and it is no consolation to them to say that other customers were receiving overweight. Most of the weights and measuring instruments which were found to be incorrect were faulty through wear and tear, and it is worth noticing that when a quinquennial visit was made to the borough by the assizes of the Standards Department of the Board of Trade, the yard measure was not quite flat—it was sagging a little in the middle—and so a plate-glass bed was obtained on which to keep the measure, to ensure that the measure remains true.

Just over four *per cent.* of the articles of food tested were found to be deficient in weight. The report states that this is largely due to evaporation of such food as dried fruits and pulses. In two cases the evaporation was caused by the food being stored near to heating appliances and in one of these cases the deficiencies were sufficiently serious to justify the institution of legal proceedings. Shopkeepers, says Mr. Roberts, can overcome this problem by acting on the advice frequently given which is (1) weigh-up only a sufficient quantity of the goods to ensure stocks are fresh, (2) store away from heat, and (3) check a few packets of stock weekly.

The borough has had a good record in the matter of the sale of coal, coke and wood, but householders are reminded of the need for vigilance in order to see they get correct quantities. There is a piece of practical advice on this point: "Where both the husband and wife go out to work it is advisable for them to try to arrange for a neighbour to check the number of sacks of fuel delivered." When there is any suspicion of a shortage the inspector should be informed promptly.

One of the problems which is now arising concerns the state of some of the petrol tanks which have been in use for 20 to 30 years. It is possible that some of these old tanks are leaking through the effects of corrosion. To meet this problem a new licence condition has been approved authorizing tests to be carried out on these old tanks. A few have already been tested and found satisfactory.

A conviction was obtained in respect of the unlawful storage of petroleum spirit in circumstances which show how careless are some people about their own safety. The quantity concerned was 57 gallons which was being kept in two oil drums in a shed situated within 7 *ft.* of a wooden bungalow in which lived a family.

NEW DETENTION CENTRE

A detention centre for boys aged 14 and under 17 has been made available for certain courts from January 16. It is situate at Foston Hall, Foston, Derby.

As accommodation is limited it is desirable that, before an order is actually made that a boy be sent to the centre, inquiry about a vacancy should be made of the warden. The Home Office has issued a circular to all those courts that will be able to make use of the centre.

WALSALL FACTS AND FIGURES, 1954/55

Borough treasurer Mr. D. H. Charlesworth, F.S.A.A., F.I.M.T.A., has published another excellent summary of the year's finances in Walsall. It is truly a pocket book, the pages being 6½ *in.* by 4¼ *in.* in size and limited to 44 in number: what is more it sets out in alphabetical order of services the most important facts about each so that undoubtedly the book must be of great value to the members of the town council.

Walsall is on the fringe of the Black Country although not quite of it, and its population (latest figure 115,000) continues to grow, but slowly.

Its rate income met 31 *per cent.* of total expenditure of £2,090,000: a rate of 21*s.* 2*d.* was levied. Income from government departments produced 56 *per cent.* of total receipts and included an equalization grant of £341,000: it is interesting to note that the rateable value of Walsall has increased as a result of the revaluation by 72 *per cent.*, which is the same figure as the national average.

There were on average 326 children in care during the year of whom 113 were boarded-out and payments made to foster parents. Boarded-out costs were £1 8*s.* per week: the comparable figure in a family group home was £5 4*s.*

Contrary to the experience of some other authorities, Walsall has found it best to employ most of its domestic helps on a full-time basis with only a relatively small number of part-timers. The council has also been successful in collecting a greater proportion (about 12 *per cent.*) of the cost from beneficiaries of the service than has been possible in many other areas.

Mr. Charlesworth points out that education has involved heavy expenditure both on capital and revenue accounts: the rate cost in 1954/55 was 9*s.* 6*d.* and the average cost per pupil £24 in primary schools and £41 in secondary schools.

There are 61 firemen, 12 of whom are part-time, and the fire service cost for the year was £42,000. Excluding chimney fires, 196 fires were attended within the borough in the 12 months.

The council provide entertainments in the parks and town hall, but spend a good deal more than they receive. The net rate cost was 1*d.* in 1954/55: in the previous year it was nearly twice as much.

At March 31, 13,200 dwellings had been erected which cost payers of rates and taxes in 1954/55 £221,000 in subsidies.

Dog, game and gun licences show a declining income trend: this experience has been common to practically all authorities since the method of collecting dog licences was altered from payment on January 1, to payment on any date, being the anniversary of that on which the previous licence was taken out.

THE SALFORD HUNDRED COURT OF RECORD

The Chancellor of the Duchy of Lancaster has made an Order (1955 S.I. 1923) which came into force on January 1, extending the jurisdiction of the Salford Hundred Court of Record to include personal actions where the sum claimed does not exceed £400, thus making the jurisdiction identical with that of the county courts, which should prove beneficial to practitioners. Legal aid is now available in proceedings in this court, by virtue of the Legal Aid and Advice Act, 1949 (Commencement No. 5) Order, 1955 (S.I. 1775 C 14).

APPROVED PROBATION HOSTEL AND HOME FLAT RATES

In Home Office Circular No. 211/1955, dated December 29, it is stated that the rates fixed at £1 16*s.* 9*d.* for hostels and £3 1*s.* 3*d.* for homes the weekly flat rates for the financial year 1955/56, in respect of persons under the supervision of a probation officer and required by a probation or supervision order to reside in an approved probation hostel or an approved probation home, will continue in force during the year beginning April 1, 1956.

BANKRUPTCY GENERAL REPORT

Publication by the Board of Trade of General Annual Reports on matters within the Bankruptcy and Deeds of Arrangement Acts was discontinued early in the war, the last annual report, which related to the year 1938, having been issued in April, 1940.

To facilitate the work of the committee (under the chairmanship of His Honour Judge Blagden) recently appointed to consider what amendments are desirable in those Acts, the Board of Trade have just published a report for the years 1939-53. It is thought that the information in the report may be of assistance to trade and professional organizations and to individuals who may desire to present their views and suggestions to the committee.

The report includes tables showing the extent of the war-time decrease (by comparison with the year 1938) and of the post-war increase in bankruptcies and deeds of arrangement. It also includes tables giving, in respect of each year, statistics relating to trusteeships held by Official Receivers and non-official trustees; Orders of Discharge; prosecutions; and failures in the principal trades and occupations.

It is expected that the General Annual Report for 1954 will be published early this year.

ROAD ACCIDENTS—OCTOBER AND NOVEMBER, 1955

Road casualties in November totalled 22,384. This figure—which is provisional—is 949 more than in November, 1954.

Deaths numbered 514, a decrease of four; serious injuries, 5,425, an increase of 282; and slight injuries, 16,445, an increase of 671.

Final casualty figures for October give a total of 24,025. Deaths numbered 531 and serious injuries 5,669.

HOSPITAL FRIENDS

The National League of Hospital Friends, through its branches in all parts of the country, is doing much to provide for the welfare of patients in general hospitals and latterly, instigated by the Minister of Health, in mental and mental deficiency hospitals. This aspect of their work was discussed at a conference held recently in London. The chairman of the national league (Mr. Percy Wetenhall, O.B.E.) said it was the aim to have such a league for each hospital. This would be a link between the hospital and the population which it served. One of their functions is to educate the public and they should, in his view, take a part in re-shaping the whole public outlook on mental ill-health and its treatment. Dr. G. O'Gorman, physician-superintendent of a mental deficiency hospital near Reading, said the members of the league had helped to provide holidays for patients, had organized a seaside camp for children, had given patients outings to the seaside and to the zoo and had organized sports and games. He commended specially the social work which members did for the patients. He also mentioned the various ways in which the league had raised funds for their various activities. On the help which can be given to patients on licence Dr. O'Gorman referred to a club in Reading which was being formed to enable them to mix with normal people, the club being composed of about equal numbers of normal people and defectives. Dr. G. I. Yewfik said people from voluntary organizations were sometimes upset by the atmosphere in a mental hospital, particularly in the more chronic wards and he had been able to obtain visitors for patients who had no regular visitors by enlisting the help of the churches, the Women's Voluntary Service and the British Red Cross Society. He stressed the importance of visitors to patients in mental hospitals understanding the hospital problems; for this he had found occasional meetings were very useful.

INCREASED EXPECTATION OF LIFE— LATEST POPULATION ESTIMATES

The Registrar-General's Quarterly Return for the September quarter, 1955, has been published. The return relates to England and Wales. On the basis of the death rates for the year 1954, the expectation of life of a boy at birth is 67·58 years, and of a girl 73·05 years. On the basis of 1953 death rates their expectations of life were 67·30 and 72·44 respectively, while on the basis of the average of the death rates for 1901–1910 their expectations were 48·53 and 52·38.

The home population of England and Wales at June 30, 1955, is estimated to have been 44,441,000 (21,389,000 males and 23,052,000 females). The home population comprises the civilian population plus armed forces (including foreign forces) stationed in England and Wales.

The total population (civilian population plus H.M. Forces belonging to England and Wales at home and abroad and exclusive of other armed forces stationed here) is estimated as 44,623,000 (21,569,000 males and 23,054,000 females).

Since June 30, 1954, the home population is estimated to have increased by 167,000. It is estimated that, while those aged 65 and over have increased by 51,000, children aged 0–4 have decreased by 43,000.

Marriages

The number of marriages in the September quarter was 106,217 which was 1,717 less than the average for the corresponding quarters of 1950–54.

The rate of 19·0 persons married per thousand population was 0·3 higher than for that for the September quarter of 1954.

HOUSING ASSOCIATIONS FOR OLD PEOPLE

There are a number of housing associations catering specially for old people and, in this, the Church Army and the Women's Voluntary Service are doing specially good work. The Church Army has been providing houses for 20 years and have built nearly 1,000 dwellings in various parts of the country. As the needs of old people became more urgent after the last world war the Church Army diverted their biggest effort to providing moderately rented unfurnished accommodation for the elderly who are still well able to maintain their independence if provided with the means to do so. This scheme was dedicated to Sir Winston Churchill, K.C., C.H., in gratitude and admiration for his leadership during the war. Large houses known as "Churchill" houses have been converted into single room flatlets, each with a kitchen unit. A house mother lives in each house. A recent development is the availability of some large mansions which have become

the responsibility of the Ministry of Works through the Historic Buildings Council. Not all of these are suitable for housing elderly people but in one case the owner has granted the Church Army Housing Society a lease at nominal rent, which with the help of a grant from the council, is enabling the society to adapt it into a 19-flat Churchill house. This is an excellent way of preserving a 300-year building and using it for a practical purpose.

Another scheme which deserves support from local authorities in helping to meet their housing needs is organized by the W.V.S. Housing Association. Under their scheme a house may be bought by the local housing authority and converted into single-room flatlets. The function of W.V.S. is to ensure the smooth running of the house by getting to know the tenants and helping them by advice and friendship as the individual need arises. The W.V.S. visitor collects the rents weekly. These vary from 10s. to 15s. 6*d*. per week according to the size and position of the room, and are inclusive of light, hot water, use of cooker, cooking fuel and outside window cleaning. Elderly women are selected by the local authority in agreement with W.V.S. from the housing list, and a resident warden, also from this list, is appointed for each house. Her wages are equivalent to her rent which she pays in the same way as the other occupants.

Similar schemes have been inaugurated by some local housing associations and with the co-operation of the local authority, improvement grants have been obtained under the Housing Acts. This method of housing old people is naturally much cheaper than in independent dwellings and is appreciated by those living alone for whom a single bed sitting room suitably equipped, with bathroom available, is all that is necessary. The National Federation of Housing Societies advises any local organization desiring to undertake this kind of scheme. The arrangements whereby improvement grants can be obtained are fully explained in the October issue of the Federation's quarterly bulletin. As it is there explained many housing societies are finding great difficulty in getting approval for subsidized new building schemes owing to present policy affecting new house building as a whole, but improvement and conversion schemes are not affected by this; moreover, the Government is keen to see this type of work go ahead. It seems, therefore, that there is an immense field for housing societies here and that local authorities would welcome their co-operation.

LOANS SANCTIONED, APRIL 1—DECEMBER 31, 1955

The Ministry of Housing and Local Government have recently published figures of loans sanctioned during the quarter ended on December 31, last. We summarize below the figures for the first nine months of the current financial year (the figures in brackets in the totals relate to the comparable period in 1954/55).

Quarter ended	Housing (including Advances for House Purchase)	Education	Sewerage and Water Supplies	Other Services	Total
	£ 000's	£ 000's	£ 000's	£ 000's	£ 000's
June 30, 1955	63,115	25,094	18,451	13,048	119,708
Sept. 30, 1955	83,238	16,796	15,159	13,504	128,697
Dec. 31, 1955	90,637	14,757	17,094	12,445	134,933
	236,990 (240,342)	56,647 (40,373)	50,704 (28,197)	38,997 (31,162)	383,338 (340,074)
Percentage of total	62	15	13	10	100

So far as services other than housing are concerned there is little evidence so far of any reduction of capital expenditure, although next quarter's figures may show a change. The second biggest individual spending service, *viz.*: education, has been specifically exempted from the exhortation of the Chancellor to cut down and on many other services authorities will find it very difficult indeed to comply with the request to limit capital expenditure to the level of 1954/55.

The housing figures include the sums paid as advances and grants under the Housing Acts and Small Dwellings Acquisition Acts; these show a large increase each quarter:

Quarter ended	£ 000's
June 30	14,445
September 30	22,561
December 31	31,356

Little money is being spent out of loan on highway improvements, the total for the nine months only amounting to £5,674,000

WEEKLY NOTES OF CASES

QUEEN'S BENCH DIVISION

(Before Lord Goddard, C.J., Stable and Ashworth, JJ.)

REYNOLDS v. JOHN
T. WALL & SONS, LTD. v. JOHN

January 18 and 19, 1956

Advertisement—"Loudspeaker"—Ice-cream van equipped with mechanism for providing chimes—Glamorgan County Council Act, 1952, s. 115 (1).

CASE STATED by Glamorgan justices.

At Penarth magistrates' court informations were preferred by the respondent, Mr. Richard John, clerk to the Glamorgan county council, charging the respondents, Gordon Reynolds and T. Wall & Sons, Ltd., his employers, with, respectively, operating and causing to be operated a loudspeaker for the purpose of advertising the second respondents' business of ice-cream vendors in Penarth on February 6, 1955, contrary to s. 115 of the Glamorgan County Council Act, 1952. This section provides: (1) "No person shall for the purpose of advertising any trade or business . . . operate or cause or suffer to be operated any loudspeaker when such loudspeaker is in any street in the county. (5) In this section the expression 'loudspeaker' includes an amplifier or similar instrument."

The justices found that a van belonging to the second respondents and driven by the first respondent was equipped with a mechanism for producing a sound of chimes. Similar vans were operated by the appellants throughout England and Wales for the purpose of selling ice cream direct from the van to consumers in the street outside their homes. The method of informing them that the vans were there was the sounding of chimes, which were produced by the driver pressing a button on a box beside his seat. On the day in question the first respondent was driving the van, and to attract attention operated the mechanism. A policeman heard the chimes more than half a mile away.

The justices were of opinion that the mechanism was a "loudspeaker" used for advertising within the meaning of s. 115 and convicted and fined the appellants, who appealed.

Held, dismissing the appeals, (i) that the object of s. 115 (1) was to prevent advertising in a street, and that that included persons such as the first respondent calling attention to themselves and their goods; (ii) the word "include" was used to enlarge rather than to restrict the definition, and the apparatus used by the first respondent fell within the definition of "loudspeaker."

Per STABLE and ASHWORTH, JJ.: A loudspeaker is an apparatus electrically driven for the purpose of providing sound over a wide area.

Per LORD GODDARD, C.J.: The question whether to bring an instrument within the definition in subs. (5) it was necessary that it should be electrically operated should be left open. The word "amplified" would be sufficient to include a megaphone.

Counsel: *Beney, Q.C., and Tilling*, for the appellants; *Rougier* for the respondent.

Solicitors: *Simpson, North, Harley & Co.*; *Torr & Co.*, for *Richard John*, clerk to the Glamorgan county council.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

LAMB v. JEFFRIES

January 18, 1956

Local Government—Town councillor—Disqualification—Office of profit in the gift or disposal of local authority—Assisted master at grammar school—Appointment by governors of school in consultation with headmaster—Appointment subject to confirmation by divisional executive of borough—Local Government Act, 1933 (23 *and* 24 *Geo.* 5, *c.* 51), *s.* 59 (1), *s.* 84.

CASE STATED by Lowestoft justices.

An information was preferred under s. 84 (1) of the Local Government Act, 1933, at Lowestoft magistrates' court by the respondent Jeffries charging the appellant, Raymond William Lamb, senior classics master at Lowestoft Grammar School, with having, on June 8, 1955, acted as a member of the Lowestoft town council, when he was disqualified for so acting, contrary to s. 59 (1) (*a*) of the Act.

The borough of Lowestoft being for the purposes of the Education Acts an "excepted district," the borough council, with the approval of the Ministry, had made a scheme of divisional administration which came into force on December 6, 1945. Pursuant to that scheme the council had made an instrument and articles of government relating to county secondary schools within the borough. The instrument provided that assistant masters should be appointed by the governors in consultation with the headmaster of the school in question, and under the scheme any appointment so made was to be subject to confirmation by the divisional executive.

The justices were of opinion that the requirement of confirmation by the town council, as divisional executive, of appointments of assistant masters made by the governors resulted in such appointments being in the gift or disposal of the town council, and, therefore, they convicted the defendant and fined him £5 with £10 10s. costs.

Held (STABLE, J., dissenting), that, as an assistant master could not be appointed unless the appointment was confirmed by the local authority, the authority could either assent or dissent to the appointment, and the office was at the disposal of the authority, and, therefore, the justices had come to a right decision in point of law. The appeal must, therefore, be dismissed.

Per curiam: As the appellant had acted in perfect good faith, a nominal fine of 1s. would have been sufficient.

Counsel: *Michael C. Parker* for the appellant; *Rippon* for the respondent.

Solicitors: *K. Wormald*; *Butt & Bowyer*, for *Daynes, Keefe & Co.*, Norwich.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

PERSONALIA

APPOINTMENTS

Superintendent J. F. Flatman, M.B.E., retired from his post as deputy chief constable of the Isle of Ely, on January 31. He had served the Isle of Ely since 1912. Superintendent Flatman is succeeded by Superintendent F. G. Wells, formerly in charge of the Wisbech division of Cambridgeshire constabulary. The former was appointed deputy chief constable on January 1, 1938, and was awarded the M.B.E. in the New Year's Honours List in 1950. Superintendent Wells joined the force in 1920 at Ely. He served 14 years at Ely, was promoted sergeant in 1933, inspector in 1936 and superintendent two years later. He had been in charge of the Wisbech division since October, 1954, having previously been in charge of the Ely division since 1938. From February 1, Superintendent F. C. Skoulding from Ely took over the Wisbech division.

Mr. Joseph Hudspith has been appointed a probation officer with the Herefordshire combined probation area, to succeed Mr. P. H. Hare, now in Hong Kong, *see* our issue of December 17, 1955. Mr. Hudspith, who is at present senior probation officer for Sunderland county borough will be taking up his duties in Herefordshire at the beginning of February. The other male probation officer for the county, Mr. P. W. Brown, is due to retire in April, next, after 32 years of probation and kindred service and Mr. Graham Jones who is at present with the Monmouthshire combined probation area has been appointed to fill the vacancy which will arise on Mr. Brown's retirement.

OBITUARY

Mr. George Henry Boyce Peters, a partner in the firm of Messrs. Blaker and Peters, of Chichester, and former registrar of Chichester, Arundel and Petworth county courts, has died at the age of 75. Mr. Peters entered into partnership with Mr. Ernest H. Blaker in 1923. On the death of Mr. Blaker in 1938, Mr. Peters entered into partnership with Mr. J. H. G. Parsons and they continued to practise at the same address. Mr. Peters was clerk of the peace for the city of Chichester from 1925, until the appointment was abolished under the Justice of the Peace Act of 1949. He was registrar of the three county courts from 1938 until that area was embodied in the Brighton county court area. President of the Sussex Law Society from February, 1949 to February, 1950, Mr. Peters was also president of the Chichester and District Law Society from October, 1950 until September, 1951.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

SIR,

TORRIDGE AND TAW

Aided by the *Golden Treasury*, a *Dictionary of Quotations*, and a memory fairly retentive of verse belonging to those periods "when poets thought no shame to rhyme and scan," I spent much of Plough Sunday (and odd half hours since) searching for the line you used as heading for your admirably judicious article at p. 4 on Devon magistrates' courts. Is there in Little London a poet hitherto unrecognized, or is the origin of the line an editorial secret ?

Yours faithfully,
N. R. TEMPLE.

London.

[No secret, and no poet. Neither *Palgrave* nor Little London, but Charles Kingsley: *see* p. 1 of *Westward Ho* ! *Ed., J.P. and L.G.R.*]

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

THE IMPORTANCE OF STATEMENTS MADE AT THE TIME

A few weeks ago in your issue of November 26, 1955, you wrote:

"It would make, we think, an interesting debate if it could be arranged for the retiring president (of the Huddersfield Incorporated Law Society) and the chief constable (of Huddersfield) to argue their respective cases."

Such a debate would, indeed, be interesting especially if the retiring president quoted reg. 9 of the Police (Discipline) (Deputy Chief Constables, Assistant Chief Constables and Chief Constables) Regulations, 1952, which provides that the first oral or written statement made to the police authority by an accused deputy, assistant or chief constable shall not be admissible at a subsequent disciplinary hearing unless it is put in evidence at the hearing by the accused.

I can well understand the chief constable of Huddersfield not being in favour of such a facility being extended to a member of the public with whom he had to deal in the course of his duty, but if the principle is good for the police in discipline, why should it be bad for the motorist (or burglar) in law ?

Yours faithfully,
F. W. TAYLOR.

46 Denmark Street,
Watford,
Herts.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

ADOPTION: REPORT OF GUARDIAN *AD LITEM*

With reference to the contributed article in your issue of December 3, 1955, on the reports of the guardian-*ad-litem* in adoption applications, it is very true that the procedure differs widely in juvenile courts, and regulations governing the presentation of these reports might be of great assistance to the magistrates and to the guardian-*ad-litem*. Whilst agreeing that justice must not only be done, but must be seen to be done, it is difficult to see how anonymity in serial number cases can be preserved if reports on the three parties concerned in the proceedings are to be given verbally in the presence of the applicants. Where adoptions have been arranged by societies or local authorities there may be information about the natural parents not disclosed to the applicants, but which the magistrates should know; difficulties can also arise, even where there is a direct placement, about such

matters as the husbands' actual earnings (many wives are unaware of these), the fact that one or other applicant may have criminal convictions, or an adverse family medical history not disclosed to the partner, but known to the guardian-*ad-litem*.

After many years of acting as guardian-*ad-litem* I am of opinion that the written report considered privately by the magistrates, is better than a verbal presentation. If there is anything detrimental to the applicant an honest guardian-*ad-litem* will have discussed the point with him beforehand and if it influences against an order being made the chairman would inevitably disclose it.

Yours faithfully,
GUARDIAN-AD-LITEM.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

STAMPED RECEIPTS

May I refer to your P.P. 3 on p. 839 of your issue of December 24, 1955. You may care to refer to the case of *Attorney-General* v. *Northwood Electric Light & Power Co., Ltd.* [1947] 1 All E.R. 483.

This case supports the opinion which you have given. I believe that in many courts it is not the practice to send a receipt by post.

Yours faithfully,
JUSTICES' CLERK.

REVIEWS

The Law of Torts. By Harry Street. London: Butterworth & Co. (Publishers) Ltd. Price 45s. net.

There are a good many books upon the law of torts; some classics on the subject have been newly edited. Yet, as the learned author points out in his preface, there is no up-to-date textbook on the subject originally written by an English university teacher who is still engaged in teaching. More remarkable, it seems that no English university teacher who has graduated in law since the first World War has produced a new book upon the subject. The publishers, therefore, have done well to put in the hands of law students and teachers the present work, of manageable size, by a solicitor who is professor of law in the University of Nottingham. The subject is of growing importance to the practitioner and, despite encroachments by statute law in several forms, there seems no end to the possibilities of action upon common law principles as developed in the present century. The learned author adopts an arrangement which will be unfamiliar to many of his colleagues, but which he considers likely to be helpful to the student. He begins (that is to say) with specific torts, after no more than a short introductory chapter under the heading "Difficulty in arriving at a Definition of Torts." This arrangement may be contrasted, not only with major textbooks on the subject but with its treatment in the Digest of English Civil Law from the same publishing house, where the late Professor Jenks and his original collaborators (all at one time university teachers) followed the established method of dealing first with abstract principles of liability and then with instances of specific torts, for some of which special remedies had been provided by Parliament. Professor Street at any rate has the courage of his convictions, and claims that proceeding from the particular to the general has been found, by himself and others, to be the more satisfactory method of approach.

Tort is predominantly a matter of case law, and the author has felt himself free to relegate some of the older illustrations to the background, and to find his examples in All E.R. and other reports of the last few years. No writer upon torts today can fail to take account of the American Restatement, and of the influence exerted even on our own courts by decisions in the United States where, as we have mentioned from time to time in reviews of American law books, the existence of so many courts of co-ordinate jurisdiction, each in its own territory a supreme court, and like our own High Court affected by the sacredness of precedent, has given great possibilities for developing distinctions and analogies. The author approaches torts in general from the plaintiff's point of view, which is how the student will first come to them when he starts in practice, but of course the conduct of the defendant or potential defendant is not overlooked, as a factor in the plaintiff's chance of success. The law is stated as at the middle of the present year and, as the price of the book is modest for these times, it will no doubt be found possible to bring out new editions, keeping pace with the ingenuity of judges which has today more scope in this field than in any other.

The appearance of the book is pleasing and, even where the print is small, it is easily legible. The table of cases is a long one (an inevitable feature in any book on torts), and the sound practice of the publishers is followed, of giving a full apparatus of citations: reviews in these columns have constantly stressed the importance of this feature for students, even more than in works designed to be used in practice, and we adhere to that view in spite of *dicta* to the contrary from some academic quarters. We prophesy that the present work will be speedily successful in the schools, and that the learned author's enterprise, in starting his pupils and his readers on a new approach to tort, will be found advantageous not merely to the circulation of the book but to its younger readers when they start in practice.

GLEANINGS FROM THE PRESS

Western Mail. January 7, 1956.

YOUTHS STOLE FROM WOMAN

Robert Page, aged 21, *a colliery repairer, of Mill Street, Tonyrefail, was ordered to pay* £94 *restitution and* £17 2*s. in fines and costs after he admitted at Llantrisant yesterday that he stole* £115 *from the home of a* 57 *year old woman.*

Colin Richards, aged 17, *of Mill Street, Tonyrefail, who pleaded guilty to jointly stealing* £34 *with Page, was fined* £15 *and ordered to pay* £2 2*s. advocate's fees and* £12 *restitution.*

Fined £15 *for receiving stolen money, Paul Buckland Thomas, aged* 20, *was ordered to pay* £20 *restitution, Myrddin Williams, aged* 19, *was ordered to pay* £7, *and Ralph Alan Heastie was ordered to pay* £1. *All are of Heol Haulfryn, Tyn-y-Bryn.*

This is a good example of the use of s. 34 of the Magistrates' Courts, Act, 1952, which provides that "where a magistrates' court convicts a person of felony, the court shall have the same power to award a sum of money to any person aggrieved as a court of Assize or quarter sessions has under s. 4 of the Forfeiture Act; and any sum so awarded shall be enforceable in the same way as costs ordered to be paid by the offender."

Section 4 of the Forfeiture Act, 1870, provides that a court, upon the application of the person aggrieved, and immediately after the conviction of any person for felony, may award a sum not exceeding £100 by way of satisfaction or compensation for any loss or property suffered by the applicant through or by means of the felony.

Until the Magistrates' Courts Act, 1952, came into force it was doubtful whether, reading the Forfeiture Act as a whole, "court" in s. 4 included a magistrates' court. Now, under s. 34 of the 1952 Act, magistrates' courts may order compensation up to £100 on a conviction for felony and the sum awarded may be enforced in the same way as costs ordered to be paid by the offender, that is, in the same way as a fine (s. 10 (3) Costs in Criminal Cases Act, 1952).

Daily Telegraph. Saturday, January 7, 1956.

C.I.D. BRING BACK MAN FROM CALAIS

Anthony John Hawkes, 32, *a company director of no fixed address, was charged on a warrant issued at Bow Street last night with failing to appear at the Old Bailey on May* 10. *He will appear at Bow Street today.*

Hawkes, who was detained in France, was handed over to Det.-Insp. E. Millen by French police at Calais yesterday. He was due to be tried at the Old Bailey on charges of fraudulent conversion. About £10,000 *was involved.*

It was reported on Monday, January 9, that Hawkes was committed for trial at the Central Criminal Court.

This is an example of s. 12 of the Magistrates' Courts Act, 1952, in action. That section deals with committal after failure to appear at Assizes or quarter sessions. Under subs. (1) the prosecutor obtains a certificate of the signing of the indictment from the court of trial, in this case the Central Criminal Court. Under subs. (2) the certificate is produced to any justice of the peace for any county or borough in which any offence is charged in the indictment as having been committed or in which the accused resides or is, or is believed to reside or be, and the justice then issues a warrant to arrest the accused and

bring him before a magistrates' court for that county or borough. The form of warrant is form 25 in the Magistrates' Courts (Forms) Rules, 1952.

Under subs. (3) and (4), on it being proved to the satisfaction of the magistrates' court that the person brought before it is the person named in the indictment, the court must without further inquiry commit him for trial at the appropriate court. The form of committal is form 26 in the rules.

The committal need not be in custody. Bail may be granted. That follows from subs. (5), which applies, subject to the provisions of the preceding subsections, the provisions of the Magistrates' Courts Act, 1952, relating to committal for trial to the committal of a person under s. 12 as they apply to the committal of a person by examining justices.

Under the proviso to subs. (2), if it is proved to the justices to whom the certificate of the signing of the indictment is produced that the accused is in a prison or other place of detention the justice must in the absence of the accused commit him for trial. Even in that case bail might be allowed (subs. (5)) and it would become effective when the accused was no longer held for some other cause (*see* form 27).

We consider it to be advisable in practice in cases under s. 12 to take the evidence identifying the accused with the person named in the indictment as depositions and to forward those depositions to the court of trial.

"WHEN ICICLES HANG BY THE WALL"

The recent case of *T. Wall & Sons, Ltd.* v. *John* (*The Times*, January 18 and 19) has involved some pleasant exchanges, not all of them confined to legal issues. The appellants had been summoned before the Glamorgan justices on an information charging them with "having caused to be operated, at Penarth, a loudspeaker for the purpose of advertising the business of an ice-cream vendor, contrary to s. 115 (1) of the Glamorgan County Council Act, 1952." Following announcements in the local press, on hoardings and on cinema screens, of the times when their van would visit the area, the appellants had sent their "consumer-sales van" into Penarth, equipped with a mechanism for producing the sound of chimes, which was operated by a push-button beside the driver's seat. By subs. (5) of the quoted section it was provided that the word "loudspeaker" included "an amplifier or similar instrument." On these facts the justices found the offence proved, being of opinion, *inter alia*, that the apparatus was a "loudspeaker" within the meaning of the section.

On the hearing before the Divisional Court some support was forthcoming for the applicability of the word "amplifier" by reference to the evidence of a policemen, who had heard the chimes more than half a mile away. But could the apparatus be described as a "loudspeaker" if it was not used to reproduce speech, but only the chimes of a bell? Secondly, could it be said that those chimes were "for the purpose of advertising a trade or business"? The Court answered both questions in the affirmative; but not before the learned Lord Chief Justice had nostalgically recalled the analogous system of working associated with the muffin-man (now, alas! vanished or vanishing from the urban scene). His lordship took judicial notice of the modern usage of selling ice-creams from itinerant vans, in the homely words—"Stop me and buy one! We all know about that!"

A further suggestion from counsel—that the main object of the section was to stop the "mischief" of amplified political polemics at election time—elicited from his lordship the heart-felt comment: "A dreadful business! Vans come round and place themselves outside your house, and shout at you!" It seems from the report that he checked himself in the midst of a further remark contrasting that nefarious practice with the (comparatively innocuous) "ding-dong bell" of the ice-cream vendor. Perhaps we may be permitted respectfully to record our impression (derived from the report) that the learned Lord Chief Justice concurred somewhat reluctantly in the judgment of the Court dismissing the appeal. There is a human touch about his comments that will warm the hearts of all children between the ages of eight and eighty.

The balance between good and evil (as Robinson Crusoe would have called it) in relation to this controversial subject is reflected in many literary allusions. The poets never seem quite to have made up their minds about it. The well-known nursery-rhyme referring to the Bells of St. Clement's seems in its first line to have gone astray between the Law Courts and Covent Garden Market; while in the couplet—

> "'When will you pay me?'
> Say the bells of Old Bailey,"

—it exhibits a regrettable confusion between the institution of a civil action for money had and received, and the trial of felonies at the Central Criminal Court. For Tennyson the bells ring out the Old Year and ring in the New (together, it must be admitted, with a very tiresome catalogue of Victorian Vices and Virtues). Ophelia finds Hamlet's charm marred by his eccentricities,

> "Like sweet bells jangled, out of tune and harsh."

There is no doubt about Tom Hood's affections:

> "Dear bells! how sweet the sound of village bells
> When on the undulating air they swim
> Now loud as welcomes; faint now as farewells!"

But Alfred Edward Housman—the link between Victorian sentimentality and twentieth-century harshness—comes out very peevishly on the opposite side:

> "O noisy bells be dumb!
> I hear you—I will come!"

—an adjuration perhaps lacking in poetic spirit, but at least having the merit of leaving no doubt about the listener's opinions on new-fangled advertising methods.

As for the appellants, T. Wall & Sons, Ltd., the *locus classicus* is of course "the most lamentable comedy and most cruel death of Pyramus and Thisbe," in the last Act of *A Midsummer Night's Dream*. Pyramus is a temperamental lover, and a bit changeable in his attitude:

> "And thou, O Wall, O sweet and lovely Wall!
> Show me thy chink, to blink through with mine eye . . .
> Thanks, courteous Wall: Jove shield thee well for this!
> But what see I? No Thisbe do I see.
> O wicked Wall, through whom I see no bliss,
> Cursed be thy stones for thus deceiving me!"

The present-day Pyramus, out walking with his Thisbe in the heat of a summer afternoon, gives an effusive welcome to the appearance of the sweet and lovely Wall, and would never be such a curmudgeon, as he makes his choice between Strawberry Tubs, Choc-Ices and Vanilla Bricks, as to echo the two final lines of the above quotation. Despite the decision of the Divisional Court, many would miss him badly if he vanished from our streets: may his parting words, today, presage nothing more final than a return to depot for fresh supplies on the morrow:

> "Thus have I, Wall, my part discharged so;
> And, being done, thus Wall away doth go."

A.L.P.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1. Acquisition of Land—*Protected tenant—Severence of reversion.*

In your reply to P.P. 1 at 119 J.P.N. 596 you did not mention the Housing Repairs and Rents Act, 1954, s. 33 of which takes property owned by, *inter alia*, a county or county district council outside the Rent Acts. In view of the wide terms of this section and particularly of subs. (3), it appears that the correct answer to the query is that once the council have purchased the freehold reversion, they can serve a week's notice on the tenant, and are then entitled to possession. It does not seem to me that the severence of the statutory tenancy affects the matter.

BORK.

Answer.

Section 33 (3) of the Act of 1954 enacts that a person shall not be entitled to retain possession "as a statutory tenant." This expression is defined in s. 49 by reference to the definition of "tenant" in s. 12 (1) (*g*) of the Act of 1920. This is found to be an including quasi-definition. In the same para. (*g*) the expression "landlord" is similarly expanded (we quote) "in relation to any dwelling-house," and it seems that the expressions "tenant" and (therefore) "statutory tenant" must also be regarded as defined "in relation to any dwelling-house." In the query at 119 J.P.N. 596, the person in question was not tenant under the council of a dwelling-house, but of a piece of land originally let with (but now let by a different lessor from the lessor of) the dwelling-house. Whilst we took the view at p. 596 that this piece of land, by reason of the original letting, must be treated as part of the house, as stated in s. 12 (2) (iii) of the Act of 1920, we did not consider that the tenant of that land was tenant (of the council) "in relation to" a dwelling-house. However, it may be that the distinction we drew is too fine, and that the tenant cannot have it both ways. In other words, it may be that if she is tenant under the council of "part of the house" within s. 12 (2) (iii) of the Act of 1920, she is also their tenant "in relation to" a dwelling-house, notwithstanding that she rents the house proper from a different person. If this is so, s. 33 (3) of the Act of 1954 deprives her of protection for the severed piece of land.

2. Contract—*Breach—Measure of damages.*

Tenders were invited for the laying of sewers and the construction of an ejector station through and on land which was almost immediately adjoined by a large lake. The specification did not refer to the physical conditions which contractors might encounter as a result of the close proximity of this lake, and stated that they must satisfy themselves by their own independent inquiries and observations as to the character of the subsoil or strata through which the excavations were to be made or piling to be driven, but that details of boreholes taken by the council would be made available for inspection without the acceptance of any liability for their accuracy.

Three tenders were received. The lowest was unacceptable because the tenderer's record on previous work for the council was unsatisfactory and his financial position was understood to be unsound. The next lowest tender was accepted and the contract documents executed. A bond was taken for 10 *per cent.* of the contract price.

The contractor, having received an order to begin work, has now refused to do so on the following grounds:

(*a*) That having relied solely on the specification, he had no knowledge of the presence of the lake and his inquiries made after tendering have revealed that the work would require piling, for which he made no allowance in his tender;

(*b*) That in addition to the warning that contractors must make their own inquiries as to the site conditions, the specification should have made reference to the wet condition of the ground or have been worded in such a way as to put contractors on inquiry.

The contractor contends that, apart from enforcing the bond, the council has no remedy against him for damages for breach of contract.

The clerk is proposing to advise the council as follows:

(*a*) That there is a clear breach of contract.

(*b*) That it was unnecessary for the specification to warn contractors of the possibility of water percolating into the site of the works, as the presence of the lake should of itself have given ample warning, and in any case the wording of the specification was such that the contractor cannot now contend that the job was not what he thought it was, as he should have satisfied himself by inspection or otherwise before he tendered.

(*c*) That the measure of damages is *prima facie* the difference between the accepted tender and the next lowest tender.

Will you please give me your opinion as to whether:

(*a*) The clerk's view is correct.

(*b*) The fact of the lower tender, which for the reasons indicated would not have been accepted, need be taken into account when considering the measure of damages.

(*c*) The measure of damages would be affected if, owing to the effluxion of time, the scheme was re-advertised and higher tenders resulted.

P.R.E.H.

Answer.

(*a*) As to statements (*a*) and (*b*), yes, in our opinion.

(*c*) The measure of damages is the difference between the price agreed and the actual cost of completion—assuming, of course, that the council take all businesslike steps. That cost may well be higher than the highest tender submitted at the earlier stage.

3. Guardianship of Infants Acts—*Access and custody—Removal of child from England to Germany—Powers of magistrates' court to insert condition in order.*

An application under the Guardianship of Infants Acts, has been made to my justices by the mother of two children. G is living apart from her husband A, who is in another county, and who wants G and the children to return to live with him. The application has been adjourned for inquiries to be made by the probation officer. In the meantime, A has written to the court agreeing to an order being made in favour of the wife G, offering £1 a week maintenance for each child, but requesting specifically that the court will make it a condition of the order that the two children shall not be permitted to leave the country, as he is afraid that G, who is German by birth, may take the children to reside permanently in Germany. It is doubted whether there is power to insert such a condition in the order owing to the impossibility of enforcement against G if she is residing in Germany.

The following points arise:

(i) Have the justices any power to insert a condition in the order prohibiting the removal of the children to Germany?

(ii) If the justices have no power to enforce such a condition, what legal steps can A take to prevent the removal of the children to Germany, if he has reason to suppose they are about to be taken there, and, if the children have been taken to Germany what steps can A take to obtain their return to England?

S.A.B.C.

Answer.

(i) The Acts authorize the making of orders as to custody, access and maintenance, and in our opinion justices have no power to insert such a condition as is proposed.

(ii) We suggest that A may be unwise if he consents to the making of an order giving custody to G and that instead he should apply for custody. If G took the children to Germany and remained there with them A could not take any effective steps by legal process to force her to return.

Generally.

Although justices' powers are limited by statute, the High Court has inherent power in addition to those conferred by the statutes, and this may be a case which is fitter to be heard by the High Court.

If A retained the legal custody of the children he could probably prevent their being taken to Germany against his will. On this point information might be sought from the passport office.

4. Housing Act, 1949, s. 4—*Advance to owner for purpose of paying off mortgage.*

The local authority has received an application from the owner of a house for an advance under the above Act to enable him to redeem the existing mortgage on the property. As the Act authorizes local authorities to advance money to any persons for the purchase of, *inter alia*, acquiring houses, can an advance be made in this case?

POMBER.

Answer.

We have consistently advised that an advance under the Small Dwellings Acquisition Acts cannot be made for the purpose of enabling a person, who has already bought a house, to pocket the difference between two rates of interest. We see no reason to adopt a different opinion under s. 4 of the Housing Act, 1949: *see* 115 J.P.N. 656, 722, amongst other answers on this point. Even if such an advance is authorized by the Act (which we doubt) the council have discretion whether to make it, or to use their available resources in helping persons who have not yet "acquired," because they could not raise the money elsewhere.

5.—**Housing Act, 1949, s. 22**—*Improvement—Division of house.*

I shall be glad of your valued opinion as to whether you consider s. 22 (*a*) of the above Act (as to fixing of rents following improvement work having been carried out) may be construed so as to include both dwellings where a conversion of one house produces two quite independent housing units without any communication between them whatsoever.

In the case in mind a large house is to be so converted that one wing is to form a completely independent unit equivalent, in accommodation and amenities, to a normal small semi-detached house. It would seem that the council will be required to fix a rent in respect of this unit, but the wording of the section does not conclusively indicate whether, in such circumstances, a rental should be fixed in respect of the remainder of the original house which is in itself still unimproved but a completely independent housing unit.

I regret that no suitable plan is available for your perusal but I hope I have given sufficient information for you to be able to form an opinion on the matter.

I do not think subs. (*b*) of the section would apply in any case, as this refers to " every dwelling to be improved by means of the works." In the case in question, the original house would not be improved because a separate dwelling results from the carrying out of the works which, as a result, reduces the accommodation standards and amenities of it.

PULLIN.

Answer.

We gather that the former single house became two separate dwelling-houses by the execution of the improvement works. If so, we incline to the view that each part, as existing after the conversion, is a dwelling provided by means of the works, within the meaning of (*a*) in s. 22.

6.—**Road Traffic Acts**—*Vehicles (Excise) Act*, 1949—*Lorry and driver hired by trailer owner to tow trailer—Necessary extra duty not paid—Liability of vehicle owner and of hirer for this and for defects in the vehicle.*

The police have brought the following summonses against a firm A. The vehicle in question is a lorry drawing a trailer owned by firm A, the lorry being owned by a haulage contractor B, who is also summoned as mentioned below.

Firm A is summoned:

(*a*) That it used the vehicle for a purpose which brought it within the description of a vehicle for which a higher rate of duty was payable—contrary to s. 13 of the Vehicles (Excise) Act, 1949.

(*b*) Using goods vehicle with defective speedometer—contrary to Nos. 73 and 101 of the Motor Vehicles (Construction and Use) Regulations, 1951.

(*c*) Using goods vehicle in a dangerous condition—contrary to Nos. 72 and 101 of the Motor Vehicles (Construction and Use) Regulations, 1951.

(*d*) Using goods vehicle, steering gear not maintained in proper order—contrary to Nos. 75 and 101 of the Motor Vehicles (Construction and Use) Regulations, 1951.

The haulage contractor B is summoned:

(*a*) That he aided and abetted firm A in (*a*) above.

(*b*), (*c*) and (*d*) Permitting offences against firm A at (*b*), (*c*) and (*d*) above.

The trailer was being used by firm A in connexion with their business, and they frequently employed the vehicles of the haulage contractor B for this purpose. On the day in question the vehicle had left the depot of haulage contractor B, driven by a man in his employ, and it proceeded to a yard belonging to firm A, where the trailer was attached. It was stopped in the course of a journey. The defects which are alleged as rendering the vehicle in a dangerous condition are obvious defects.

Section 33, subs. (1) of the Finance Act, 1953, appears to confer jurisdiction on the magistrates to consider the excise offences alleged against A and B, but other questions arise, *e.g.*:

(*a*) Was firm A using the vehicle within the Vehicles (Excise) Act, 1949, and can a haulage contractor be said to be aiding and abetting such use in the circumstances of the case?

(*b*) Can firm A be said to be using the goods vehicle within the Motor Vehicles (Construction and Use) Regulations in respect of the offences alleged at (*b*) (*c*), and (*d*)?

(*c*) Is not the haulage contractor B using the goods vehicle rather than permitting such use by firm A, in that the haulage contractor is using the vehicle in connexion with his business of hiring such vehicles?

(*d*) If the answer to (*c*) is that the haulage contractor B is using his vehicle, is the information wrongly drawn, by alleging that he permitted the use by firm A, and if so would it not be permissible for the prosecution to ask for an amendment of the summonses at the hearing, by deleting " permitting " and substituting " using "?

It seems that the lorry driver himself could have been summoned for " using " the vehicle in contravention of the Motor Vehicles (Construction and Use) Regulations, in that he was earning his living by using the vehicle, but the prosecution have not thought fit to do this.

JABURY.

Answer.

As we understand the facts, B is an independent contractor who is asked and is paid to supply a vehicle with driver to tow A's trailer. If this be so we think that it is B who is using the vehicle for the purposes both of the Vehicles (Excise) Act and of the Construction and Use Regulations.

We do not think that A is using B's vehicle at all within the meaning of this Act and these regulations, any more than a business man who hires a motor-cab (or a hire-car) to carry him and his goods to a prospective purchaser is so using that cab or hire-car.

We think application should be made to amend all the summonses against B to allege that he was using the vehicle.

We agree that B's driver is liable to be charged under the Construction and Use Regulations. He is also *liable* under the 1949 Act, but on this *see Carpenter* v. *Campbell* [1953] 1 All E.R. 280; 117 J.P. 90.

7.—**Water Acts, 1945-1948**—*Renewal of stop-cock box.*

The council are the water undertakers for the area in which the premises referred to herein are situated. The premises are supplied with water for domestic purposes from the council's main which is laid in the pavement opposite thereto. A stop-cock and surface box is situated in the pavement, opposite the premises. It was found necessary to renew the stop-cock box (not as the result of any action of the owner or tenant of the premises concerned) and an account for the cost has been rendered to the owner. The owner repudiates liability. In view of the definition of " communication pipe," " supply pipe " and " service pipe " and the provisions of s. 44 in sch. 3 to the Water Act, 1945, it appears that the liability for meeting the cost of renewing the stop-cock box in this case rests with the council.

I shall be grateful for your opinion as to who is responsible for meeting the expense.

A.R.E.H.

Answer.

In our opinion, the council.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

OXFORDSHIRE PROBATION AREA

Appointment of Male Probation Officer

APPLICATIONS are invited for the appointment of a whole-time Male Probation Officer. Applicants must either be serving whole-time Probation Officers or have satisfactorily completed a course of training approved by the Secretary of State. The salary and other conditions of appointment and service will be in accordance with the Probation Rules, 1949–1955, and the Probation Officers and Clerks (Superannuation) Regulations, 1954. The successful applicant will be required to pass a medical examination. Applicants should be able to drive a car.

Applications, stating age, present position, qualifications and experience, and the names of three referees, must reach the undersigned not later than the first post on February 29, 1956. Canvassing, either directly or indirectly, will disqualify.

GERALD GALE BURKITT,
Clerk to the Oxfordshire Area Probation Committee.

County Hall,
Oxford.
January 26, 1956.

CITY OF SALFORD

APPLICATIONS are invited for the appointment of Assistant in the Cashier's Department of the Clerk to the Justices. Applicants should be not less than 21 years of age. The salary will be in accordance with the General Division or Higher General Division of the National Joint Council Scales, viz., rising to a maximum of £420 on the General Division and to a maximum of £500 on the Higher General Division. The latter scale will only be applied if the successful candidate possesses a General Certificate of Education or has passed the Local Government Examination Board's Entrance Examination. The appointment will be superannuable and subject to a medical examination. Written applications, giving age, education and experience, with copies of two recent testimonials, should be sent before February 13, 1956, to the Clerk to the Justices, Town Hall, Salford 3.

SURREY MAGISTRATES' COURTS COMMITTEE

WALLINGTON PETTY SESSIONAL DIVISION

Appointment of Justices' Clerk's Assistant

APPLICATIONS are invited for the above whole-time appointment from men or women who are competent shorthand typists. Preference will be given to those with some experience in a Justices' Clerk's office. The conditions of service will be those applicable to Justices' Clerks' Assistants. The present salary is in accordance with the Higher General Division (maximum £500 for males and £436 for females, plus £30 London weighting), but this may be adjusted to accord with conditions of service and salary applicable to Justices' Clerks' Assistants. The appointment is superannuable, subject to one month's notice; a medical examination is required. Applications in own handwriting stating age and experience together with names of two referees should be sent to the Clerk to the Justices, 18 Stanley Park Road, Wallington, by February 13, 1956. Letters marked "Assistant."

COUNTY OF ESSEX

DIVISION OF BEACONTREE

Appointment of Full-time Male Probation Officer

Appointment of Full-time Female Probation Officer

APPLICATIONS are invited for the above appointments. Applicants must be not less than 23 nor more than 40 years of age, except in the case of full-time serving Probation Officers. The appointments will be subject to the Probation Rules, 1949, as amended, and the salaries will be in accordance with such rules, plus Metropolitan addition £30 a year, and subject to superannuation deductions.

The successful candidates will be required to pass medical examinations.

Applications, stating age, qualifications and experience, together with copies of two recent testimonials, must reach the undersigned not later than Monday February 20, 1956.

H. GRAHAM BARROW,
Secretary to the Probation Committee.

The Court House,
Great Eastern Road,
Stratford, E.15.

CITY OF MANCHESTER

Appointment of Whole-time Female Probation Officer

APPLICATIONS are invited for the appointment of a whole-time Female Probation Officer.

Applicants must be not less than 23 nor more than 40 years of age, except in the case of a serving probation officer.

The appointment will be subject to the Probation Rules, 1949 to 1955, and the salary will be according to the scale prescribed by those Rules.

The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with copies of not more than two recent testimonials, must reach the undersigned not later than February 18, 1956.

HAROLD COOPER,
Secretary of the Probation Committee.

City Magistrates' Court,
Manchester 1.

BOROUGH OF STAFFORD

Deputy Town Clerk

Applications invited from Solicitors with Local Government experience. Salary Scale £1,151 13*s.* 4*d.* × increments of £35—£1,291, 13*s.* 4*d.* which is two-thirds of the Joint Negotiating Committee Salary Scale of the Town Clerk. Appointment determinable by two months' notice.

Applications, stating age, qualifications and experience, and the names of two persons to whom reference may be made to be sent to the undersigned not later than February 10, 1956.

T. BROUGHTON NOWELL,
Town Clerk.

Borough Hall,
Stafford.
January 23, 1956.

URBAN DISTRICT COUNCIL OF YIEWSLEY AND WEST DRAYTON

Appointment of Assistant Solicitor

APPLICATIONS are invited for this appointment at a salary in accordance with the National Joint Council for Assistant Solicitors *i.e.*, £755—£1,000 per annum inclusive of London Weighting (£10 per annum less under 26 years of age). If the successful applicant has had two years' legal experience from the date of admission his commencing salary will be not less than £860 per annum (£850 per annum under 26).

Previous local government experience will be an advantage but is not essential. The appointment will offer wide opportunities for obtaining all-round experience of local government law and administration with an authority whose area includes the greater part of London Airport.

The post is superannuable and the successful applicant will be required to pass a medical examination. Housing may be available if required.

Applications, giving age, date of admission, particulars of qualifications and experience, together with the names of two referees, should reach the undersigned not later than February 18, 1956.

ARTHUR BOOTE,
Clerk of the Council.

Drayton Hall,
West Drayton,
Middlesex.

CITY OF MANCHESTER

Appointment of Additional Whole-time Male Probation Officer

APPLICATIONS are invited for the appointment of an additional whole-time Male Probation Officer.

Applicants must be not less than 23 nor more than 40 years of age, except in the case of a serving probation officer.

The appointment will be subject to the Probation Rules, 1949 to 1955, and the salary will be according to the scale prescribed by those Rules.

The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with copies of not more than two recent testimonials, must reach the undersigned not later than February 18, 1956.

HAROLD COOPER,
Secretary of the Probation Committee.

City Magistrates' Court,
Manchester, 1.

COUNTY BOROUGH OF BRIGHTON

ASSISTANT Solicitor required. Salary within A.P.T. Grade VI. Experience in advocacy an advantage. Applications, with the names of three referees, to reach me not later than February 20, 1956.

Canvassing will disqualify.

W. O. DODD,
Town Clerk.

Town Hall,
Brighton.
January 27, 1956.